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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,243	01/16/2004	Michael J. Carrow	CARR-006	7067
7590	06/17/2004		EXAMINER	
Michael S. Neustel Suite No.4 2534 South University Drive Fargo, ND 58103			RICHARDSON, JOHN A	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/759,243

Applicant(s)

CARROW, MICHAEL J.

Examiner

John Richardson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01-16-2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Non Final Rejection***

1). The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2). The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3). The disclosure is objected to because of the following informalities:

- It is noted that not all the items described in the specification disclosure are identified in the list of Figures 1-10, and vice-versa, for example, **pad member item 34, page 9, line 7**, is not shown on Figures 1-10.

Appropriate correction is required.

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4). Claims 1 to 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kilby (U.S. 4,558,531).

The reference discloses a firearm adjustable support system comprising a base (item 12), a plurality of support members adjustably attached to said base (items 42), a support structure / unit (item 20) attached to said base about a pivot axis aperture (item 38), and wherein said support structure / unit is capable of supporting a firearm as shown in Figure 1, relating to claims 2-3, the said firearm adjustable system comprises a plurality front support legs (items 42) extended outwardly from the said base at an angle (see Figure 3), relating to claim 4, the reference discloses a rear support leg (item 42 as shown in Figure 4), relating to claims 5-7, the said support leg members provide vertical adjustment through screw threads with a locking collar details (items as shown in Figure 4 and by item 46, relating to claim 8, the reference discloses a end-caps / pads member in contact with the support surface (items 48), relating to claims 9-10, the reference discloses a handle opening (item 40), relating to claims 11-13, and 15 the reference discloses a pivot axle height adjuster detail (Figure 4, items 26, 28) rotatably retained within the said base, relating to claim 14, the reference discloses an aperture / slot (item 38) with a ram / pin (item 28, Column 2, lines 36-64), relating to claims 16, 18, the reference discloses the said support structure / unit with a pair of side members (items 18) with side recesses / slots (items 60, 62), relating to claim 17, the reference discloses a cut-out for receiving a firearm (item 66).

It is noted that a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed

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apparatus from prior art apparatus" if the prior art teaches all the structural limitations of the claim. In re Masham, 2 USPQ2d 1647.

Claims directed to apparatus must be distinguished from prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device *is*, not what a device *does*. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP§ 2115, a recitation in a claim to the material or article worked upon, does not serve to limit an apparatus claim.

5). Claims 1 to 3, 5 to 7, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Felts (U.S. 6,044,747).

The reference discloses a rifle rest comprising a base (item 12), a plurality of support members adjustably attached to said base (items 14), a support unit (item 44) pivotally attached to the said base through a pivot axis threaded rod (item 46), and wherein the said support unit is capable of supporting a firearm (see Figure 3), relating to claims 2-3, the reference discloses at least two support members extending outwardly (see for example, Figure 3, items 14), relating to claims 5-7, the said support members allow for vertical adjustment and are threadably connected to said base with locking collars (items 15), and relating to claim 19, the base is in the form of a composite Y shaped structure as shown in Figure 2, items 12, 21, 22).

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6). Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kilby (U.S. 4,558,531) in view of any of Felts (U.S. 6,044,747), or Looney (U.S. 6,526,687).

The primary reference has been discussed in 4) and discloses the claimed device except for citing the equilateral triangular shaped base plate of Kilby (item 12) in the form of a Y shaped baseplate. It would have been obvious to one having ordinary skill in the art at the time of the invention, since the examiner takes Official Notice of the equivalence of equilateral triangular shaped base plates and Y shaped baseplates for their use in the firearm support art and the selection of any of these known equivalent baseplate shapes would be within the level of ordinary skill in the art, and in particular noting that the secondary references disclose a plurality of shapes such as Felts (Y shaped) and Looney (T shaped).

7). The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8). Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Richardson whose telephone number is (703) 305

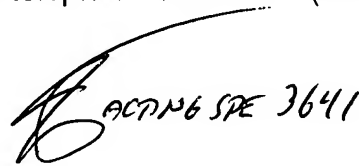
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0764. The examiner can normally be reached on Monday to Thursday from 7.00 AM to 4.30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306 4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305 7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 1113.



John Richardson, PE,

June 10 2004.